

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 142

# **SENATE BILL 1054**

AN ACT

AMENDING SECTION 12-133, ARIZONA REVISED STATUTES; RELATING TO ARBITRATION OF CLAIMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-133, Arizona Revised Statutes, is amended to  
3 read:

4 12-133. Arbitration of claims; agreement of reference;  
5 arbitration award; powers of arbitrators;  
6 compensation of arbitrators; appeals; deposits; costs

7 A. The superior court, by rule of court, shall do both of the  
8 following:

9 1. Establish jurisdictional limits of not to exceed ~~fifty~~ SIXTY-FIVE  
10 thousand dollars for submission of disputes to arbitration.

11 2. Require arbitration in all cases which are filed in superior court  
12 in which the court finds or the parties agree that the amount in controversy  
13 does not exceed the jurisdictional limit.

14 B. The court may waive the arbitration requirement on a showing of  
15 good cause if all parties file a written stipulation waiving the arbitration  
16 requirement.

17 C. The court shall maintain a list of qualified persons within its  
18 jurisdiction who have agreed to serve as arbitrators, subject to the right of  
19 each person to refuse to serve in a particular assigned case and subject  
20 further to the right of any party to show good cause why an appointed  
21 arbitrator should not serve in a particular assigned case. The court rules  
22 shall provide that the case subject to arbitration shall be assigned for  
23 hearing to a panel of three arbitrators, or in the alternative, to a single  
24 arbitrator, each of whom shall be selected by the court.

25 D. Regardless of whether or not suit has been filed, any case may be  
26 referred to arbitration by an agreement of reference signed by the parties or  
27 their respective counsel for both sides in the case. The agreement of  
28 reference shall define the issues involved for determination in the  
29 arbitration proceeding and may also contain stipulations with respect to  
30 agreed facts, issues or defenses. In such cases, the agreement of reference  
31 shall take the place of the pleadings in the case and shall be filed of  
32 record.

33 E. The arbitration award shall be in writing, signed by a majority of  
34 the arbitrators and filed with the court. The court shall enter the award in  
35 its record of judgments. The award has the effect of a judgment upon the  
36 parties unless reversed upon appeal.

37 F. The arbitrators shall administer oaths or affirmations and conduct  
38 the hearings pursuant to court rule. The clerk of the superior court shall  
39 issue subpoenas, which are enforceable as provided by law.

40 G. Each arbitrator shall be paid a reasonable sum, not to exceed  
41 ~~seventy-five~~ ONE HUNDRED FORTY dollars per day, to be specified by the rules  
42 of the appointing court, for each day necessarily expended by the arbitrator  
43 in the hearing and determination of the case. The compensation of the  
44 arbitrators shall be paid by the county, in which the court has jurisdiction,  
45 from its general revenues and shall not be taxed as costs.

1           H. Any party to the arbitration proceeding may appeal from the  
2 arbitration award to the court in which the award is entered by filing,  
3 within the time limited by rule of court, a demand for trial de novo on law  
4 and fact.

5           I. Upon appeal, at the time of filing the demand for trial de novo,  
6 and as a condition of filing, the appellant shall deposit a sum equal to the  
7 total compensation of the arbitrators, but not exceeding ten per cent of the  
8 amount in controversy, which sum shall be deposited with the county. If the  
9 court finds that the appellant is unable to make the deposit by reason of  
10 lack of funds, the court shall allow the filing of the appeal without the  
11 deposit. The deposit shall be refunded to the appellant if the judgment on  
12 the trial de novo is at least ~~twenty-five~~ TWENTY-THREE per cent more  
13 favorable than the monetary relief or other type of relief granted by the  
14 arbitration award. If the judgment on trial de novo is not at least  
15 ~~twenty-five~~ TWENTY-THREE per cent more favorable than the monetary relief or  
16 other type of relief granted by the arbitration award, the court shall order  
17 that the deposit be used to pay, or that the appellant pay if the deposit is  
18 insufficient, the following costs and fees, unless the court finds on motion  
19 that the imposition of the costs and fees would create such a substantial  
20 economic hardship as not to be in the interest of justice:

21           1. To the county, the compensation actually paid to the arbitrator.

22           2. To the appellee, those costs taxable in any civil action and  
23 reasonable attorney fees as determined by the trial judge for services  
24 necessitated by the appeal.

25           3. Reasonable expert witness fees that are incurred by the appellee in  
26 connection with the appeal.

27           J. An arbitrator is personally immune from suit with respect to all  
28 acts done and actions taken in furtherance of the purposes of this section.

29           K. The jurisdictional limit under subsection A, paragraph 1 does not  
30 apply to arbitration that is conducted under an alternative dispute  
31 resolution program approved by the supreme court.

APPROVED BY THE GOVERNOR APRIL 27, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2007.